

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SANJAY TRIPATHY,

Plaintiff,

Case # 19-CV-6614-FPG

v.

ORDER

CAPTAIN LOCKWOOD, et al.,

Defendants.

Pro se Plaintiff Sanjay Tripathy filed this civil rights action against more than a dozen defendants, challenging a laundry policy at Gowanda Correctional Facility. ECF No. 1. He asserts that the policy violates his religious beliefs as a Hindu. On November 25, 2019, the Court dismissed some claims with prejudice, dismissed some claims with leave to file an amended complaint, and allowed the following claims to proceed to service: (1) First Amendment claims against Captain Lockwood and Reverend Harris in their individual capacities; (2) a RLUIPA claim against DOCCS; and (3) a claim for prospective injunctive relief under the First Amendment against Superintendent Kickbush, Lockwood, and Harris in their official capacities. ECF No. 3 at 11.

On December 9, 2019, Plaintiff filed an amended complaint . ECF No. 4. The amended complaint pares down the allegations and defendants so as to be consistent with the Court's November 25, 2019 Order. The only difference is that Plaintiff brings new allegations to raise a claim against Kickbush for violation of his First Amendment rights. *See id.* at 5-6. Viewing the *pro se* amended complaint liberally, *see Wynder v. McMahon*, 360 F.3d 73, 79 (2d Cir. 2004), the Court concludes that Plaintiff adequately states a First Amendment § 1983 claim against Kickbush in her individual capacity.

Accordingly, the following claims shall proceed to service: (1) the First Amendment claims against Lockwood, Harris, and Kickbush in their individual capacities; (2) the RLUIPA claim against DOCCS; and (3) the claim for prospective injunctive relief under the First Amendment against Kickbush, Lockwood, and Harris in their official capacities. The Clerk of Court will cause the United States Marshal to serve copies of the Summons, Amended Complaint, and this Order upon Lockwood, Harris, DOCCS, and Kickbush without Plaintiff's payment, with unpaid fees to be recoverable if this action terminates by monetary award in Plaintiff's favor. The Clerk of Court will send a copy of this Order to Plaintiff and to Ted O'Brien, Assistant Attorney General in Charge, Rochester Regional Office at Ted.O'Brien@ag.ny.gov. Pursuant to 42 U.S.C. § 1997e(g), Defendants are directed to answer the Amended Complaint upon service.

One other matter must be addressed. After filing the Amended Complaint, Plaintiff submitted letters complaining of potential harassment and retaliation by correctional officials. *See* ECF Nos. 5, 6. To the extent Plaintiff is requesting that the Court independently investigate his allegations, that is not the Court's role. Plaintiff is free to move to amend his complaint if he wishes to add new claims, but the Court will not take any action at this time based on his letters.

IT IS SO ORDERED.

Dated: February 24, 2020
Rochester, New York



HON. FRANK P. GERACI, JR.
Chief Judge
United States District Court